



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: April 30, 2003

REPORT NO. RA-03-12
CMR-03-088

ATTENTION: Honorable Chair and Members of the Redevelopment Agency
Honorable Mayor and City Council
Docket of May 6, 2003

SUBJECT: Naval Training Center Redevelopment Project

REFERENCE: Manager's Report No. 00-134, dated June 21, 2000
Manager's Report No. 02-096, dated April 29, 2002

SUMMARY

Issues – Should the City Council and the Redevelopment Agency:

- 1) Authorize the City Manager or his designee to apply to HUD for a Section 108 loan of \$5.91 million for the rehabilitation of certain historic buildings within the Civic, Arts and Cultural Center of the Naval Training Center Redevelopment Project and to set forth the legal authority and certifications necessary for such an application?
- 2) Authorize the City Manager or his designee to apply to HUD for a Brownfields Economic Development Initiative (BEDI) grant in an amount up to \$1.065 million for the annual repayment of the HUD 108 loan and to set forth the legal authority and certifications necessary for such an application?
- 3) Authorize the City Manager or his designee to conduct all negotiations and to execute and submit all documents related to the processing of the 108 loan and the BEDI grant, if said loan and grant are approved?
- 4) Authorize the City Manager or his designee to accept such loan and grant funds and to transfer up to \$5.85 million in proceeds to the Redevelopment Agency for the rehabilitation of certain historic buildings within the NTC Civic, Arts and Cultural Center, a public arts center, if said loan is approved and funded?

- 5) Authorize the City Manager or designee to utilize approximately \$564,000 of tax increment revenue generated by the Naval Training Center Redevelopment Project for annual repayment of the HUD 108 loan over 20 years, with the understanding that the City's future CDBG entitlement funds must also be pledged as security should there be insufficient tax increment revenue to make the annual payments?
- 6) Authorize the City Manager to utilize the BEDI grant for interest-only payments on the HUD108 loan for up to 3 years?
- 7) Authorize the City Manager to amend the Community Development Block Grant 2003 Action Plan to reflect the use of HUD 108 funds for the NTC Civic, Arts and Cultural Center?
- 8) Make the finding that the NTC Redevelopment Plan is in conformance with the City's General Plan and the Peninsula Community Plan?
- 9) Authorize the Executive Director to encumber specific buildings in the Civic, Arts and Cultural Center by issuing a deed of trust in HUD's favor?
- 10) Authorize the Executive Director or his designee to execute the Third Implementation Agreement to the Naval Training Center Disposition and Development Agreement?
- 11) Authorize the Executive Director or his designee to execute the Rehabilitation Grant Agreement between the Agency and the NTC Foundation?
- 12) Authorize the City Manager or his designee to execute the Memorandum of Understanding with the NTC Foundation?
- 13) Authorize the Executive Director, or designee, as the Agency's authorized representative, to vote for the formation of the Liberty Station Maintenance Assessment District?

Manager's/Executive Director's Recommendations –

That the City Council:

- 1) Authorize the City Manager or his designee to apply to HUD for a Section 108 loan of \$5.91 million for the rehabilitation of certain historic buildings within the Civic, Arts and Cultural Center of the Naval Training Center project and to set forth the legal authority and certifications necessary for such an application.
- 2) Authorize the City Manager or his designee to apply to HUD for a BEDI grant in an amount up to \$1.065 million for the annual repayment of the HUD 108 loan

and to set forth the legal authority and certifications necessary for such an application.

- 3) Authorize the City Manager or his designee to conduct all negotiations and to execute and submit all documents related to the processing of the 108 loan and the BEDI grant, if said loan and grant are approved.
- 4) Authorize the City Manager or his designee to accept such funds and to transfer up to \$5.85 million in proceeds to the Redevelopment Agency for the rehabilitation of certain historic buildings within the NTC Civic, Arts and Cultural Center, a public arts center, if said loan is approved and funded.
- 5) Authorize the City Manager to utilize approximately \$564,000 of tax increment revenue generated by the Naval Training Center Redevelopment Project for annual repayment of the HUD 108 loan over 20 years, with the understanding that the City's future CDBG entitlement funds must also be pledged as security should there be insufficient tax increment revenue to make the annual payments.
- 6) Authorize the City Manager to utilize the BEDI grant for interest-only payments on the HUD108 loan for up to 3 years for annual repayment of the HUD 108 loan.
- 7) Authorize the City Manager to amend the Community Development Block Grant 2003 Action Plan to reflect the use of HUD 108 funds for the NTC Civic, Arts and Cultural Center.
- 8) Make the finding that the NTC Redevelopment Plan is in conformance with the City's General Plan.
- 9) Authorize the City Manager or his designee to execute the Memorandum of Understanding with the NTC Foundation.

That the Redevelopment Agency:

- 1) Authorize the Executive Director to encumber specific buildings in the Civic, Arts and Cultural Center by issuing a deed of trust in HUD's favor.
- 2) Authorize the Executive Director or his designee to execute the Third Implementation Agreement to the Naval Training Center Disposition and Development Agreement.
- 3) Authorize the Executive Director or his designee to execute the Rehabilitation Grant Agreement between the Agency and the NTC Foundation.

- 4) Authorize the Executive Director, or his designee, as the Agency's authorized representative to vote for the formation of the Liberty Station Maintenance Assessment District.

Other Recommendations – None.

Fiscal Impact – The City's future CDBG entitlement funds must be pledged as security should the NTC Redevelopment Project Area generate insufficient tax increment revenue to make the annual payments on the HUD loan.

Approval of the proposed Third Implementation Agreement will authorize the pledge of tax increment revenue from the NTC Redevelopment Project Area to reimburse McMillin \$8.5 million for Additional City-imposed Requirements not included in Appendix I of the NTC Reuse Plan, pursuant to the Disposition and Development Agreement between the Agency and McMillin.

Approval of the Rehabilitation Grant Agreement will authorize the grant of \$5.85 million in 108 loan proceeds to the NTC Foundation and the use of tax increment revenue from the NTC Redevelopment Project Area for annual payments of approximately \$564,000 to repay the \$5.91 Million HUD loan.

Approval of the Memorandum of Agreement between the City of San Diego and the NTC Foundation will authorize the use of the City's transient occupancy tax revenue to pay the NTC Foundation's share of Common Area Maintenance fees to the Liberty Station Business Association commencing in 2005 for approximately \$146,000 and increasing annually to approximately \$454,000 in 2013.

Approval of Liberty Station Maintenance Assessment District will obligate the Agency to pay the assessment on property owned by the Agency within the Historic District and hotel areas until leases are executed for these areas. The Fiscal Year 2004 assessment of approximately \$13,989 will be paid from the NTC Interim Lease Revenue Fund (98050/9773). Once the Agency has entered into leases for these areas, the assessment will become the obligation of the lessees.

BACKGROUND

The Redevelopment Agency ("Agency") and McMillin-NTC, LLC ("McMillin"), entered into a Disposition and Development Agreement (the "DDA") in June 2000. The purposes of the DDA include effectuating the Redevelopment Plan for the Naval Training Center Redevelopment Project, adopted by the City Council in May, 1997, and the Naval Training Center Reuse Plan, adopted by the City Council in October, 1998, by providing for, among other things, the transfer of specific properties within the Redevelopment Project, by sale or long-term ground lease, from the Agency to McMillin and the redevelopment of these properties by McMillin and/or one or more assignees. The DDA contemplates the development of a mixed-use project involving the construction and installation of public infrastructure improvements, the rehabilitation and reuse of existing

buildings and construction of new buildings and improvements, as well as the development of a public waterfront park and recreation area on City-owned property.

The NTC Foundation is an independent 501(c) (3) nonprofit organization established, and provided with \$2.0 Million in seed funding, by McMillin pursuant to the DDA. The NTC Foundation is responsible for the rehabilitation and management of the buildings in the area of the Historic Core designated for the Civic, Arts and Cultural Center.

DISCUSSION

HUD Section 108 Loan/Rehabilitation Grant Agreement

Based on direction received from City Council to assist the NTC Foundation with the rehabilitation of historic buildings in the Civic, Arts and Cultural Center, authorization is requested to submit an application to the federal Department of Housing and Urban Development for a Section 108 Loan (“HUD loan”) in the amount of \$5.91 million. Authorization is also requested to apply to HUD for a Brownfields Economic Development Initiative grant (“BEDI”) in an amount up to \$1.065 million. The proceeds of the HUD loan, net of loan administration and issuance costs, are estimated to be \$5.85 million, which will be distributed to the NTC Foundation for construction-related costs pursuant to the proposed NTC Rehabilitation Grant Agreement (“Rehabilitation Agreement” Attachment 1).

The BEDI grant will be used to make interest-only payments on the HUD loan for the first three years. Starting in the fourth year, the HUD loan will be repaid from tax increment revenue generated by the Project Area. The BEDI grant is a competitive grant, so should the City not be awarded the BEDI grant, tax increment revenue will be used to make interest-only payments on the HUD loan for the first three years. The interest-only payments are estimated to be approximately \$355,000. Annual principal and interest payments are estimated to be approximately \$564,000 to be paid over the remaining 17 years of the loan.

HUD requires a pledge of collateral that is equal to at least 125% of the loan amount. On January 14, 2003, the City Council approved Section 108 Loan Guidelines that require, whenever possible, the loan related asset including leasehold interests be used to collateralize the loan. Therefore, buildings in the Civic, Arts and Cultural Center will be used as collateral for the loan. In addition, HUD requires the City’s future CDBG entitlement funds also to be pledged as security in the event there is insufficient Project Area tax increment revenue to make the annual payments.

The Rehabilitation Agreement provides for the Agency to grant \$5.85 million in Section 108 loan proceeds to the NTC Foundation for a portion of the Foundation’s Phase One development costs. The \$5.85 million will be used for the rehabilitation of four buildings in the Civic, Arts and Cultural Center. Estimated development costs for the Foundation’s plan to rehabilitate all 26 buildings in the Civic, Arts and Cultural Center are approximately \$43 million.

The Rehabilitation Agreement also includes a provision that, upon the request of the Foundation, the Executive Director will recommend that the Agency board approve additional funding assistance not to exceed \$6.0 million for costs relating to the rehabilitation of additional buildings and improvements in the Civic, Arts and Cultural Center. The Executive Director's recommendation to provide additional funding would be dependent upon the Foundation completing all the improvements and subleasing the buildings funded by the \$5.85 million grant, and providing matching funds through its fund-raising activities, at least dollar-for-dollar with a minimum of \$1,000,000.

Furthermore, the Executive Director's recommendation that the Agency Board consider additional funding will be subject to: 1) the ability of the City to obtain a HUD Section 108 loan or the Agency to issue an NTC Redevelopment Project tax allocation bond; and 2) the sufficiency of tax increment funds to pay the anticipated debt service for the term of such Section 108 loan or tax allocation bonds.

The sufficiency of tax increment funds to pay the anticipated debt service for the term of a second 108 loan or tax allocation bonds would be determined by deducting the following from the NTC Project Area tax increment revenue received by the Agency:

- 20% set aside for Low and Moderate Income Housing;
- payments to affected taxing entities;
- obligations to pay to an educational revenue augmentation fund or any similar statutory obligation that may be enacted obligating the Agency to pay others from NTC Redevelopment Project Tax Increment funds;
- amounts pledged to reimburse McMillin for Additional City-imposed Requirements, including any future requirements related to Maps 5, 6 and 7;
- the NTC Redevelopment Project's share of the cost of improving the Rosecrans Street/Sports Arena/Midway intersection, if any (only to the extent that the costs can be determined at the time of the Foundation's request);
- the City's share of the cost of cleaning up the Boat Channel, if any, if it is so determined and agreed upon among the appropriate governmental agencies (only to the extent that the costs can be determined at the time of the Foundation's request); and
- \$250,000 annually to pay the project's administrative costs and expenses.

Memorandum of Understanding

The terms of the DDA require the Master Developer upon completion of the improvements to maintain the property in an aesthetic and sound condition. The Master Planned Development Permit/Coastal Development Permit ("MPDP/CDP") for Liberty Station requires that the Project be served by a shared parking agreement based on a parking management plan approved by the City Engineer. In order to satisfy the conditions of the DDA and MPDP/CDP and to preserve the amenities and ensure the operation and maintenance of shared parking and other common areas of the Project, a "common interest development" was created pursuant to the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Liberty Station

("CC&Rs"). The Liberty Station Business Association was established to administer the common interest development created through the CC&Rs. On June 4, 2002, in order to ensure that uniform use, development, operation, maintenance, and shared parking goals could be achieved, the Agency consented to attaching the CC&Rs to the fee title of the parcels of property that will remain in the Agency's ownership and ground leased to a third party. The NTC Foundation has requested that the City assist with the Foundation's share of Common Area Maintenance fees that will be assessed by the Liberty Station Business Association pursuant to the CC&Rs.

The proposed Memorandum of Understanding (Attachment 6) between the City of San Diego and the NTC Foundation provides for the City to use transient occupancy tax funds to reimburse the Foundation for common area maintenance fees paid to the Liberty Station Business Association. The obligation would begin in fiscal year 2005 for approximately \$146,000 increasing annually to an estimated \$454,000 in 2013. The Foundation's financial statements will be reviewed annually to determine whether the Foundation has sufficient operating revenues to assume payment of the obligation without reimbursement by the City. The Agency is prohibited by California Redevelopment Law from using tax increment revenue for the payment of ongoing maintenance costs.

Third Implementation Agreement

On May 7, 2002, the Agency approved the First Implementation Agreement to the DDA, in which the Agency agreed to subordinate its "right of reverter" (its right to take back property if it is not developed as agreed) to the special tax lien of the Community Facilities District No. 3. On June 4, 2002, the Agency approved the Second Implementation Agreement to the DDA, in which the Agency agreed that, in order to achieve uniform use, development, operation, maintenance and shared parking goals, the Liberty Station Covenants, Conditions and Restrictions would attach to the fee title of property that will remain in Agency ownership and ground leased to a third party.

The proposed Third Implementation Agreement to the NTC DDA ("Implementation Agreement") included as Attachment 2 to this report, provides for: 1) reimbursing McMillin for costs of infrastructure improvements that are beyond the scope of the DDA and the NTC Reuse Plan; 2) incorporating into the DDA the Coastal Commission's modification to the NTC Precise Plan and Local Coastal Program ("Precise Plan"); 3) making adjustments to accommodate High Tech High School's acquisition of property in the Education Area; 4) authorizing an amendment to the Consent Agreement entered into by the Agency, McMillin and Construction Lending Corporation of America; and 5) the construction of a temporary parking lot on the Camp Nimitz Hotel site.

Infrastructure Improvements

In preparing both the NTC Reuse Plan and the Economic Development Conveyance application to the federal government, the City compiled a report on the estimated cost of

the infrastructure and other improvements that would be needed in order to convert the NTC property to civilian use. The report, "Infrastructure/Improvement Cost Estimates," was included in the NTC Reuse Plan as Appendix "I". The cost estimates in Appendix I represent the basic investment thought to be needed at the time in order to make the property suitable for occupancy, with the caveat that upgraded infrastructure and improvements would be installed once sufficient tax increment revenue was generated by the project.

The terms of the DDA make the completion of all Horizontal Improvements the responsibility of McMillin. Horizontal Improvements are defined in the DDA as the public improvements and utilities required to be constructed or installed in connection with the redevelopment of the site as set forth in Appendix I to the Reuse Plan. Improvements imposed by the City, over and above the requirements of Appendix I, are described in section 9.15 of the DDA as "Additional City-imposed Requirements," for which McMillin may be reimbursed by the Agency (Attachment 3).

The NTC Reuse Plan was approved in 1998. In January 2002, the City Council approved the Urban Runoff Management Plan which describes storm water best management practices and policies for public and private development projects. In addition, the City Water Department has learned from experience that the existing potable water lines have insufficient capacity for the proposed uses. Consequently, the City Engineer is requiring McMillin to install additional storm drain improvements and potable water lines, as well as additional ornamental streetlights beyond the scope of Appendix I (Attachment 4).

These additional improvements beyond the scope of Appendix I, and not (potentially) reimbursed with the proceeds of Community Facilities District bonds, total \$10.6 million. However, the Implementation Agreement provides for the Agency to reimburse McMillin only for the Additional City-imposed Requirements which are the lesser of \$8.5 million or the actual cost of the additional improvements. Table 1 provides a comparison summary of the costs for the storm drain, water and streetlight improvements required in Appendix I and the additional storm drain, water and streetlight improvements.

Table 1
Infrastructure Improvements

Improvements	Appendix I	Additional Improvements
Storm Drains	\$1,254,525	\$5,955,868
Water Lines	\$1,066,650	\$3,838,901
Streetlights	\$260,650	\$808,860
Total	\$2,581,825	\$10,603,629
Reimbursement		\$8,500,000

The DDA reserves the first claim on tax increment revenue to McMillin. The proposed Implementation Agreement provides for the Agency to reimburse McMillin with tax increment revenue generated by the NTC Redevelopment Project Area or with the proceeds of tax allocation bonds, once sufficient tax increment revenue is generated by the Project Area to support a tax allocation bond issue. Current estimates of the annual increase in property valuation in the Project Area indicate that sufficient tax increment revenue will not be available to issue tax allocation bonds to pay the Agency's obligation to McMillin until the fall of 2004. Therefore, until tax allocation bonds are issued, the Implementation Agreement provides for the Agency to reimburse McMillin annually from available tax increment revenue after deductions for the 20% housing set-aside, payments to the other taxing entities and interest-only payments on the HUD 108 loan for the Foundation (in the event the City does not receive the BEDI grant).

The State's budget deficits may have an adverse impact on the Agency's ability to issue tax allocation bonds, which has the potential to extend the length of time to reimburse McMillin. The Agency obligation to McMillin will accrue interest at the rate of prime plus ½% until it is fully paid.

High Tech High School

McMillin has sold a portion of the Education Area, Navy Building 49, to the Gary and Jerri-Ann Jacobs High Tech High School (["High Tech High"]), a charter school. McMillin is proposing to sell additional portions of the Education Area to High Tech High on property encompassing buildings 36, 37 and 51 (Attachment 5). The terms of the DDA state that McMillin may not sell or sublease property to a third party for building construction or improvements until the third party commits to begin the improvements within 30 days after receiving the property. The Implementation Agreement provides for the transfer of the additional property to High Tech High in a single conveyance with a revised Schedule of Outside Performance Dates ("Schedule") to accommodate High Tech High's development schedule. According to the revised

Schedule, although High Tech High will purchase all of the additional portions from McMillin in one sale, it will be entitled to commence improvements in two phases.

Consent Agreement

In connection with a construction loan agreement between Construction Lending Corporation of America (["CLCA"]) and McMillin, CLCA has made a revolving development loan to McMillin in the maximum amount of \$25,000,000, to be used to pay for Horizontal Improvements. The CLCA Loan is secured by a first deed of trust on the residential, office and business hotel properties. The Agency has executed an agreement consenting to the CLCA Loan ("Consent Agreement"). The proposed Implementation Agreement provides for the Agency Executive Director or designee to execute an amendment to the Consent Agreement stipulating that, should McMillin fail to comply with the terms of the DDA in regard to property that is not covered by the Consent Agreement, the Agency will not terminate the DDA nor exercise its right of reverter on any property encumbered by the CLCA Deed of Trust.

Temporary Parking Lot

Due to the difficulty in marketing the hotel properties in the current economic climate, the Implementation Agreement includes a provision that extends the Outside Performance Date for the business hotel on Camp Nimitz to December 2007 and has provisions for McMillin to use the hotel site (Map Area 8) on an interim basis for public parking for airport users until the site is subleased to a hotel developer pursuant to the DDA or until December 2007, whichever occurs first.

Redevelopment Plan

The Council is also being requested to make a finding that the NTC Redevelopment Plan is in conformance with the City's General Plan. Pursuant to California Community Redevelopment Law (Health and Safety Code Sect. 33000 et. seq.) the Agency may not expend any tax increment funds from the Project Area until the City Council has adopted findings that the NTC Redevelopment Plan is consistent with the City's general plan, including the housing element. When the Project Area was adopted in 1997, the NTC property was a federal military reservation with no land use entitlements that conformed to the City's Progress Guide and General Plan ("General Plan"). With the approval of the Precise Plan in 2001, land use entitlements are in place. The NTC Redevelopment Plan describes permitted land uses and provisions for low and moderate-income housing in conformance with the City's General Plan.

Liberty Station Maintenance Assessment District

The City is proposing to establish the Liberty Station Maintenance Assessment District ("District") within the boundaries of the NTC Project Area, excluding the area covered by the Military Family Housing project. The purpose of the District is to fund the maintenance and electrical costs of the ornamental streetlights in the public right-of-way

and dedicated easements within the boundaries of the District through assessment of the property owners. All costs beyond the City standard for streetlighting is considered to be Special Benefit; these costs would be assessed to the proposed District. The formation of the District must be approved by the property owners. The Redevelopment Agency owns the property within the Historic District and hotel areas which would be included in the District. Once the Agency has entered into leases for these areas, the assessment will be the obligation of the lessees. Approval of this action will authorize the Executive Director or his designee to cast the Agency's vote for formation of the District.

Respectfully submitted,

Todd Hooks
Deputy Executive Director/
Deputy Director
Redevelopment Agency

Hank Cunningham
Assistant Executive Director,
Redevelopment Agency/ Community &
Economic Development Director

Approved: Bruce Herring
Deputy City Manager

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

Attachments:

1. Third Implementation Agreement (Naval Training Center Redevelopment Project)
2. Rehabilitation Grant Agreement
3. Section 9.15 of the NTC Disposition and Development Agreement
4. Additional Infrastructure Improvements
5. High Tech High Charter School Buildings in Education Core
6. Memorandum of Understanding